

Senate File 2422 - Enrolled

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SENATE FILE 2422

AN ACT

RELATING TO ENERGY INDEPENDENCE INITIATIVES, SPECIFYING
PROCEDURES APPLICABLE TO IOWA POWER FUND APPLICATIONS,
AUTHORIZING ALLOCATIONS FROM THE FUND, DIRECTING THAT
SPECIFIED PAYMENTS, REPAYMENTS, OR RECAPTURES MADE TO OR
RECEIVED BY THE BOARD SHALL BE DEPOSITED IN THE FUND,
AUTHORIZING INCREASED ALLOCATIONS FOR ADMINISTRATIVE COSTS,
AUTHORIZING REPAYMENT OF AUDIT EXPENSES TO THE AUDITOR OF
STATE, AND PROVIDING AN EFFECTIVE DATE AND APPLICABILITY
PROVISION.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

Section 1. Section 11.5B, Code 2007, is amended by adding
the following new subsection:

NEW SUBSECTION. 15. Office of energy independence.

Sec. 2. Section 22.7, Code Supplement 2007, is amended by
adding the following new subsection:

NEW SUBSECTION. 60. Information possessed by the office
of energy independence, the Iowa power fund board, or the due
diligence committee associated with the office and the board,
relating to a prospective applicant with which the office,
board, or committee is currently negotiating, or an award
recipient, shall only be released as provided in section
469.6, subsection 6.

Sec. 3. Section 455B.851, subsection 7, Code Supplement
2007, is amended to read as follows:

7. After consideration of a full range of policies and
strategies, including the cost-effectiveness of the
strategies, the council shall develop multiple scenarios
designed to reduce statewide greenhouse gas emissions
including one scenario that would reduce such emissions by
fifty percent by 2050. The council shall also develop
short-term, medium-term, and long-term scenarios designed to
reduce statewide greenhouse gas emissions and shall consider
the cost-effectiveness of the scenarios. The council shall
establish a baseline year for purposes of calculating
reductions in statewide greenhouse gas emissions. The council
shall take nuclear power into consideration as part of its
discussion of greenhouse gas reductions, and shall incorporate
that consideration into its proposal. The council shall
submit ~~the an initial~~ proposal to the governor and the general
assembly by January 1, 2008, and shall submit an updated
proposal by January 1, 2009.

Sec. 4. Section 469.4, subsection 2, Code Supplement 2007,
is amended to read as follows:

2. The plan shall provide cost-effective options and
strategies for reducing the state's consumption of energy,
dependence on foreign sources of energy, use of fossil fuels,
and greenhouse gas emissions. The options and strategies
developed in the plan shall provide for achieving energy
independence from foreign sources of energy by the year 2025.
The plan shall include a review of a range of energy sources
including nuclear power.

Sec. 5. Section 469.6, subsection 5, paragraph d, Code
Supplement 2007, is amended to read as follows:

d. Direct moneys from the fund to be used to purchase
private or public technical assistance needed to conduct due
diligence activities ~~and to develop an Iowa energy
independence plan and to address all technical, financial, and
management processes associated with applications to the
extent not financed by the applicant.~~ Such moneys shall also
be used to research, develop, produce, and initiate
implementation of the energy independence plan. Other than
applicant financing, if agreed to by an applicant and the due
diligence committee, an application fee shall not be imposed.
Payments received in the form of applicant financing pursuant
to this paragraph shall be deposited in the fund and utilized
exclusively for the purposes for which the payments were
received.

Sec. 6. Section 469.6, Code Supplement 2007, is amended by

3 4 adding the following new subsection:

3 5 NEW SUBSECTION. 6. a. In establishing guidelines,
3 6 procedures, and policies for the awarding of financial
3 7 assistance, the board shall give due regard to the
3 8 confidentiality of certain information disclosed during the
3 9 financial assistance application process and the contract
3 10 administration process.

3 11 b. All information contained in an application for
3 12 financial assistance submitted to the board shall remain
3 13 confidential while the board is reviewing the application,
3 14 processing requests for confidentiality, negotiating with the
3 15 applicant, and preparing the application for consideration by
3 16 the board. The board may release certain information in an
3 17 application for financial assistance to a third party for
3 18 technical review. If the board releases such information to a
3 19 third party, the board shall ensure that the third party
3 20 protects such information from public disclosure. After the
3 21 board has considered a request for confidentiality, any
3 22 information not deemed confidential by the board shall be made
3 23 publicly available. Any information deemed confidential by
3 24 the board shall also be kept confidential by the office and
3 25 board during and following administration of a contract
3 26 executed pursuant to a successful application.

3 27 c. The board shall consider the written request of an
3 28 applicant or award recipient to keep confidential certain
3 29 details of an application, a contract, or the materials
3 30 submitted in support of an application or a contract. If the
3 31 request includes a sufficient explanation as to why the public
3 32 disclosure of such details would give an unfair advantage to
3 33 competitors, the board shall keep such details confidential.
3 34 If the board elects to keep certain details confidential, the
3 35 board shall release only the nonconfidential details in
4 1 response to a request for records pursuant to chapter 22. If
4 2 confidential details are withheld from a request for records
4 3 pursuant to chapter 22, the board shall release an explanation
4 4 of why the information was deemed confidential and a summary
4 5 of the nature of the information withheld and the reasons for
4 6 withholding it. In considering requests for confidential
4 7 treatment, the board shall narrowly construe the provisions of
4 8 this subsection in order to appropriately balance an
4 9 applicant's need for confidentiality against the public's
4 10 right to information about the board's activities.

4 11 d. If a request for confidentiality is denied by the
4 12 board, an applicant may withdraw an application and any
4 13 supporting materials, and the board shall not retain any
4 14 copies of the application or supporting materials. Upon
4 15 notice that an application has been withdrawn, the board shall
4 16 not release a copy in response to a request for records
4 17 pursuant to chapter 22.

4 18 e. The board shall adopt by rule a process for considering
4 19 requests to keep information confidential pursuant to this
4 20 subsection. The board may adopt emergency rules pursuant to
4 21 chapter 17A to implement this subsection. The rules shall
4 22 include criteria for guiding the board's decisions about the
4 23 confidential treatment of applicant information. The criteria
4 24 may include, but are not limited to the following:

4 25 (1) The nature and extent of competition in the
4 26 applicant's industry sector.

4 27 (2) The likelihood of adverse financial impact to the
4 28 applicant if the information were to be released.

4 29 (3) The risk that the applicant would locate in another
4 30 state if the request is denied.

4 31 (4) Any other factor the board reasonably considers
4 32 relevant.

4 33 Sec. 7. Section 469.9, subsection 4, Code Supplement 2007,
4 34 is amended by adding the following new paragraph:

4 35 NEW PARAGRAPH. e. Payments of interest, repayments of
5 1 moneys loaned, payments of royalties, recaptures of grants or
5 2 loans, and any other payments made pursuant to an agreement
5 3 approved by the board pursuant to this chapter shall be
5 4 deposited in the fund.

5 5 Sec. 8. Section 469.10, subsection 1, Code Supplement
5 6 2007, is amended to read as follows:

5 7 1. There is appropriated from the general fund of the
5 8 state to the office of energy independence for each fiscal
5 9 year of the fiscal period beginning July 1, 2008, and ending
5 10 June 30, 2011, the sum of twenty-five million dollars to be
5 11 used for awarding grants and making loans from the Iowa power
5 12 fund, and for all other purposes specified in and consistent
5 13 with this subchapter.

5 14 Sec. 9. Section 469.10, subsection 2, Code Supplement

5 15 2007, is amended to read as follows:

5 16 2. Of the moneys appropriated to the office and deposited
5 17 in the fund, the office shall utilize up to ~~one and~~
~~5 18 five-tenths three and five-tenths~~ percent of the amount
5 19 appropriated from the fund for a fiscal year for
5 20 administrative costs. From the funds available for
5 21 administrative costs, the office shall not employ more than
5 22 four full-time equivalent positions.

5 23 Sec. 10. Section 469.10, Code Supplement 2007, is amended
5 24 by adding the following new subsection:

5 25 NEW SUBSECTION. 3A. Of the moneys appropriated to the
5 26 office and deposited in the fund, the board may make
5 27 allocations for the purchase of private or public technical
5 28 assistance needed to conduct due diligence activities and to
5 29 address all technical, financial, and management processes
5 30 associated with applications to the extent not financed by the
5 31 applicant. Such moneys shall also be used to research,
5 32 develop, produce, and initiate implementation of the energy
5 33 independence plan.

5 34 Sec. 11. 2007 Iowa Acts, chapter 209, section 2, is
5 35 amended to read as follows:

6 1 SEC. 2. IOWA POWER FUND. There is appropriated from the
6 2 general fund of the state to the office of energy
6 3 independence, if enacted by 2007 Iowa Acts, House File 918, or
6 4 its successor, for the fiscal year beginning July 1, 2006, and
6 5 ending June 30, 2007, the following amount, or so much thereof
6 6 as is necessary, to be used for the purposes designated:

6 7 For deposit in the Iowa power fund, if enacted by 2007 Iowa
6 8 Acts, House File 918, or its successor, to be used for
~~6 9 awarding grants and making loans from the Iowa power fund, and~~
~~6 10 for all other purposes specified in and consistent with the~~
6 11 provisions of House File 918, or its successor:

6 12 \$ 24,670,000
6 13 1. Of the moneys appropriated to the office and deposited
6 14 in the fund, the office shall utilize up to one and
6 15 five-tenths percent of the amount appropriated from the fund
6 16 for administrative purposes.

6 17 2. Of the moneys appropriated to the office and deposited
6 18 in the fund, there shall be allocated two million five hundred
6 19 thousand dollars to the department of economic development for
6 20 deposit into the workforce training and economic development
6 21 funds of the community colleges created pursuant to section
6 22 260C.18A. Of the funds so deposited into the workforce
6 23 training and economic development funds of the community
6 24 colleges, two million five hundred thousand dollars shall be
6 25 used each year in the development and expansion of energy
6 26 industry areas and for the department's north American
6 27 industrial classification system for targeted industry areas
6 28 established pursuant to section 260C.18A.

6 29 2A. Of the moneys appropriated to the office and deposited
~~6 30 in the fund, the board may allocate moneys for the purchase of~~
~~6 31 private or public technical assistance needed to conduct due~~
~~6 32 diligence activities and to address all technical, financial,~~
~~6 33 and management processes associated with applications to the~~
~~6 34 extent not financed by the applicant. Such moneys shall also~~
~~6 35 be used to research, develop, produce, and initiate~~
7 1 implementation of the energy independence plan.

7 2 3. Notwithstanding section 8.33, amounts appropriated
7 3 pursuant to this section shall not revert but shall remain
7 4 available for the purposes designated for the following fiscal
7 5 year. Notwithstanding section 12C.7, subsection 2, interest
7 6 or earnings on moneys in the funds shall be credited to the
7 7 fund.

7 8 Sec. 12. APPLICABILITY. The section of this Act amending
7 9 section 22.7, relating to an exception to the open records
7 10 law, and enacting section 469.6, subsection 6, relating to
7 11 board determination of confidentiality upon a request for
7 12 records pursuant to chapter 22, shall apply to requests in
7 13 relation to applications that are in process on the effective
7 14 date of this Act.

7 15 Sec. 13. EFFECTIVE DATE. This Act, being deemed of
7 16 immediate importance, takes effect upon enactment.

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7 20 _____
7 21 JOHN P. KIBBIE
7 22 President of the Senate

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7 25 _____
PATRICK J. MURPHY

7 26 Speaker of the House
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7 28 I hereby certify that this bill originated in the Senate and
7 29 is known as Senate File 2422, Eighty-second General Assembly.
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7 33 _____
7 34 MICHAEL E. MARSHALL
7 35 Secretary of the Senate
7 35 Approved _____, 2008
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8 4 CHESTER J. CULVER
8 5 Governor